

REMARKS

Claims 1-9 have been presented for examination in the above-identified U.S. Patent Application.

Claims 1-9 have been rejected in Office Action dated 10/01/2004 concerning the above-identified U.S. Patent Application.

Claims 1-9 have been amended by this Amendment A.

Claims 1-9 are still in the Application and reconsideration of the Application is hereby respectfully requested.

Referring to Paragraph 2 on Page 3 of the Office Action, the drawings have been objected to because of the identifier 12 in Figure 2. By this Amendment A, correction to Figure 2 and Figure 3 has been requested implementing the change indicated by Examiner. The proposed changes are shown in the replacement drawings transmitted herewith. Therefore, objection to Application because of the cited informalities has been answered by amendment.

Claims 1-9 have been rejected under 35 U.S.C. 102 as being anticipated by Dellinger (US 6,237,151). Before discussing the Dellinger reference, the invention sought to be protected by the present Application will be summarized. In the field of athletics, it is standard practice for athletes to try to maintain warmth in the particular muscle groups being used in the activity. In the case of sports with overhead throwing, such as baseball, the pitcher tries to maintain muscle warmth in the arm and upper extremity muscle groups of the involved, pitching arm. Warmth retention keeps the muscles loose and flexible, thereby reducing muscle cramps and tightness. In addition to keeping the muscles warm, the athletes require a device that is functional, in that, the athlete can continue to throw effectively and whose movement is not restricted. Typical solutions include towel wraps or full jackets, both of which have proven inconvenient and

ineffective. Prior devices have attempted to provide thermal benefit, but these devices either don't address all the involved muscle groups or their design creates a tendency to bind or restrict movement.

Referring next to the Dellinger reference, this reference discloses a warm-up garment. As noted in Figure 2 of the reference, the warm up garment is shown and described as having a single sleeve (11) for receiving the wearer's hand and arm. The sleeve (11) is attached by a seam (15) at the upper end (12) of the sleeve. The upper end (12) of the sleeve (11) does not cover the shoulder. Moreover, the pitcher's jacket is illustrated in the figures and described in the amended claims as having a raglan sleeve (6). The raglan sleeve (6) extends in one piece diagonally to the neckline of the garment with a seam from the armhole to the neck. The seam line of the present invention is visible in the figures but not noted with an identifying number. The raglan sleeve (6) of the pitcher's jacket, therefore extends to cover the shoulder area. During pitching activity, both the arm and shoulder muscles are used in tandem as the athlete takes the arm and shoulder muscles through a full range of motion. It is, therefore, critical, that the design of a garment worn by a pitcher implements the need for uninhibited range of motion between the arm and shoulder. The raglan sleeve of the pitcher's jacket is an improvement over the reference since it provides a garment whose design incorporates both the arm and shoulder muscles. In contrast, the Dellinger reference provides a sleeve (11) with a seam (15) at the upper arm, which inhibits freedom of movement between the arm and shoulder. Therefore, the structure and function of the present invention distinguish of the Dellinger reference in a non-obvious manner.

Referring now to Figure 4 in the Dellinger reference, the back face (23) is connected to the outer surface (37) of attachment panel (35) around the wearer's upper torso. In Figure 5, the front of the Dellinger garment (10) is shown in a closed position, with the distal end (39) of the attachment strap (35) attached to the back face (23) of front panel (16), the attached face being secured under the wearer's arm. In addition, Claim #1c of the Dellinger reference notes the first and second ends are attached under the wearer's arm opposite the sleeve. Referring now to Figure 1 of the drawings in the present

invention, fastener elements (13A) and (13B) are noted. The fastener elements (13A) and (13B) are shown attached in Figure 2 at the sternal upper quadrant of the wearer. That is, in the present invention, the fastener element is located in a different, more desirable location. By locating the fastener element in the sternal upper quadrant, the wearer avoids frequent contact and friction with the fastener element. The Dellinger reference, however, notes the attachment panel (35) in a location under the throwing arm, which could create wear on the fastener element and cause discomfort for the wearer.

Referring now to Figures 7 and 8 of the Dellinger reference. The reference describes the related art having an elbow pocket (51) attached to sleeve (11) and a shoulder pocket (52) attached to back panel (17) second face (25). The reference also notes in Claim #9 a warm up garment comprising at least one pocket. Note, in the present invention, there are no said pockets.

Summarizing, the Dellinger reference includes a garment to maintain warmth in a single arm and shoulder. However, the garment's method of construction and related functionality differs from that of the present invention. The Dellinger reference uses a single sleeve with a seam edge at the upper arm, whereas, the present invention uses a raglan sleeve design that incorporates both the arm and shoulder. The raglan sleeve design described by the present invention better addresses the needs of the throwing athlete who requires apparel that allows for full, uninhibited range of motion. The Dellinger reference also describes an attachment panel that secures under the throwing arm of the wearer. The location of the attachment panel in the Dellinger reference is disruptive to the wearer who's throwing arm and hand would make frequent contact and friction with the attachment panel. The fastener element described by the current invention, however, is located in the sternal upper quadrant in order to minimize fastener wear and enhance the comfort of the wearer. In addition, the Dellinger reference claims a pocket feature that is not present in the pitcher's jacket. These differences are not obvious without the teaching of the present Application. Consequently, a rejection under 35 U.S.C. 102 (b) would not be appropriate.

In view of the foregoing discussion concerning the Claims now present in the Application, it is believed that Claims 1-9 are now in condition for allowance. Therefore, rejection of Claims 1-9 under 35 U.S.C. 102 (b) over Dellinger is respectfully traversed.



CONCLUSIONS:

In view of the foregoing discussion and the foregoing amendments, it is believed that Claims 1-9 are now in condition for allowance. Applicant hereby respectfully requests a timely Notice of Allowance be issued in this Application.

Respectfully submitted,

Bradley S. Cooper

A handwritten signature in cursive script that reads "Bradley S. Cooper".